

Applicants have added claims 29, 31, 32 and 34, which are similar to claims 1, 8, 10 and 11, but they include the term RFID. These claims are definite because the term RFID is defined in the specification. See Application page 3, line 7 and page 13, lines 18 et seq. If a claim term is defined in the specification, that term is definite. In re Moore and Janoski, 169 USPQ 236, 238 (CCPA 1971) and MPEP section 2173.05(a).

The Examiner rejected claims 1-18 as obvious over Forster. The Examiner argues:

Forster discloses a radio frequency identification (RFID) transponder 20 having a scanner 120 to detect signals (col. 4, lines 35-59, e.g. electromagnetic, magnetic, or electric), a memory 108 for storing and retrieving message information about materials stored within a reusable container 30. To collect and identify which customers have returned their containers by electronically querying (sic) the RFID's attached to the reusable container for Forster would have been obvious to one of ordinary skill in the art. It is further noted that providing common knowledge retail credit/billing information to customers via the transponder would have been obvious to one of ordinary skill in the art.

Office Action, page 3. Applicants traverse this rejection. Forster merely teaches an RFID device on a mounting clip. His RFID is "used for tracking ... tagged containers as they move throughout a distribution or manufacturing facility." Col. 2, lines 43-45. Forster does not teach, suggest or have anything to do with collecting reusable containers from customers and then

identifying which customers have returned their reusable containers by electronically querying the radio frequency identification apparatuses attached to the reusable containers collected from said customers.

Applicants' claim 1. Therefore, Forster cannot render obvious Applicants' claim1.

MPEP section 2143.03 states: "To establish *prima facie* obviousness of a claimed invention, **all** the claim limitations must be taught or suggested in the prior art." Since

Forster neither teaches nor suggests the above-quoted limitation from claim 1, Forster simply cannot render obvious claim 1.

Office Action page 3 states:

It is further noted that providing common knowledge retail credit/billing information to customers via the transponder would have been obvious to one of ordinary skill in the art. Doing such would use common knowledge retail information regarding customer use of products, e.g. beer distributors are keen on inventory purchase/use by their customers, in order to keep tabs on product use. It is noted that Forster expressly envisions alternative uses/implementations of transponder 20, e.g. col. 4, line 59+ through col. 5, line 4 and col. 6, lines 32-45.

Office Action, page 3. This is incorrect. First, Forster has nothing to do with using his transponder to monitor customer use. He merely tracks containers in a factory. Second, there is nothing in the portions of Forster cited above that pertain to "alternative uses" of his transponder. Third, Forster has absolutely nothing to do with the above-quoted limitation from claim 1. As mentioned above, in order to render a claim obvious, the prior art must teach **all** of the limitations of the claim. Since the cited art does not do this, the cited art cannot render the claims unpatentable.

Forster does not teach or suggest the subject matter of claims 5 or 18. Therefore, these claims should be allowed.

The Examiner has rejected the claims as obvious over Radican. The Examiner argues:

Radican discloses a container monitor and control system (CMCS) 10 including RFID tag and reader technology (col. 5, lines 24-55). Bill of lading and other data base information, e.g. report 100, for the customers is provided for the containers having goods placed therein and removed therefrom, e.g. col. 8, lines 35+). Though not clearly disclosed, to have provided a scanner for reading bar code or magnetic strip indicia enabling a relationship between the RFID and database memory for Radican would have been obvious to one of ordinary skill in the art. Doing such would use well-known memory database art used in a commercial setting.

Office Action, page 4. Radican neither teaches nor suggests Applicants' invention. Radican merely teaches a container monitoring system that monitors containers containing goods that are dropped off at a factory. He "tracks location and load status of shipping containers **within a defined premises....**" (Abstract.) That defined premises is the factory shown in Radican Fig. 1. However, Radican has nothing whatsoever to do with detecting the return of those containers at a return site. In particular, Radican neither teaches or suggests:

identifying which customers have returned their reusable containers by electronically querying the radio frequency identification apparatuses attached to the reusable containers collected from said customers.

Applicants' claim 1. Therefore, Radican could not possibly render obvious Applicants' claim 1.

Claim 5 recites:

receiving orders from customers, said orders being for goods from a plurality of vendors, said orders being communicated to each of said vendors;
collecting said goods from said plurality of vendors at a central location;
providing said goods in said reusable containers;
informing said customers when said goods will be available for pickup; and
making said goods available for pickup by said customers, wherein said goods are in said reusable containers.

Neither of the cited references have anything whatsoever to do with the subject matter of claim 5. Therefore, claim 5 should be allowed.

Claim 6 recites:

Method of claim 5 wherein said customers return said reusable containers to a central collection point, said method further comprising querying the radio frequency identification devices within said containers when said customers return said containers to said collection point.

Again, this is not taught in the cited references. Therefore, claim 6 must be allowed.

Claim 7 recites:

Method of claim 1 further comprising crediting accounts of those customers who return their reusable containers, said crediting being accomplished by a computer that receives the data scanned in from said radio frequency identification devices.

Again, this is not taught in the cited references. Therefore, claim 7 must be allowed.

Radican has nothing to do with Applicants' claim 18. Therefore, claim 18 must be allowed.

Applicants have added claims 19-24 which recite that the containers contain consumer products and the customer is the consumer of those consumer products. Radican merely tracks goods in a factory, and has nothing to do with shipping consumer products to consumers. Accordingly, Radican could not possibly teach or render obvious Applicants' claims 19-24.

As mentioned above, independent claims 29, 31, 32 and 34 are similar to claims 1, 8, 10 and 11. Therefore, these claims should be allowed for at least the reasons set forth above.

The Examiner states that certain references were not properly identified in the PTO Form 1449. Applicants submit herewith new PTO Forms 1449. Applicants' attorney has included all of the information he has about the references. According, they should be made of record.

As claims 1-34 distinguish over the cited art, Applicants earnestly request that the Application be allowed. If the Examiner's next action is other than allowance, the Examiner is respectfully requested to telephone Applicants' attorney at (408) 732-9500.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on 3/30/03.

3/30/03
Date

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Signature

ATTACHMENT SHOWING CHANGES BEING MADE TO THE CLAIMS

1. (Amended) A method comprising:

providing goods in reusable containers, said reusable containers having [RFID apparatus] a radio frequency identification device attached thereto;

establishing a relationship between [an RFID] a radio frequency identification device and a memory;

providing said goods in said containers to customers;

collecting said reusable containers from said customers; and

identifying which customers have returned their reusable containers by electronically querying the [RFIDs] radio frequency identification devices attached to the reusable containers collected from said customers.

2. (Amended) Method of claim 1 wherein said establishing of said relationship comprises storing in said memory a database including data associated with said [RFID] radio frequency identification device.

3. (Amended) Method of claim 1 wherein said establishing of said relationship comprises storing in said memory an identification indicia indicative of said [RFID] radio frequency identification device.

6. (Amended) Method of claim 5 wherein said customers return said reusable containers to a central collection point, said method further comprising querying

the [RFIDs] radio frequency identification devices within said containers when said customers return said containers to said collection point.

7. (Amended) Method of claim 1 further comprising crediting accounts of those customers who return their reusable containers, said crediting being accomplished by a computer that receives the data scanned in from said [RFIDs] radio frequency identification devices.

8. A system comprising:
a memory;
a plurality of reusable containers, each reusable container having [RFID apparatus] a radio frequency identification device affixed thereto; and
a scanner for scanning the [RFID apparatus] radio frequency identification device affixed to said containers and tracking when said containers are provided to customers and when said containers are returned by said customers.

10. (Amended) A method comprising:
providing goods in reusable containers, said reusable containers having [RFID apparatus] a radio frequency identification device attached thereto;
establishing a relationship between [an RFID] a radio frequency identification device and a memory;
shipping said goods in said containers to a distribution point;
providing said goods to customers;

collecting said reusable containers; and
identifying which containers have been collected by electronically querying the
[RFIDs] radio frequency identification devices attached to the reusable containers.

11. (Amended) A system comprising:
a memory;
a plurality of reusable containers, each reusable container having [RFID
apparatus] a radio frequency identification device affixed thereto; and
a scanner for scanning the [RFID apparatus] radio frequency identification device
affixed to said containers and tracking said containers, said containers being collected at a
collection point after they have been used to ship products, said scanner scanning the
radio frequency identification device affixed to said containers at the collection point so
that the collection of said containers can be logged.